

ORIGINAL

OPEN MEETING



0000074139

MEMORANDUM
RECEIVED

410

Arizona Corporation Commission

DOCKETED

JUN 20 2007

TO: THE COMMISSION

2007 JUN 20 P 2:44

FROM: Utilities Division

AZ CORP COMMISSION
DOCKET CONTROL

DATE: June 20, 2007

DOCKETED BY	nr
-------------	----

RE: IN THE MATTER OF THE JOINT APPLICATION OF THE ARIZONA ELECTRIC POWER COOPERATIVE, INC. AND SOUTHWEST TRANSMISSION COOPERATIVE, INC. FOR PERMISSION TO REFUND CERTAIN AMOUNTS RELATING TO AUGUST [2005] BILLINGS (DOCKET NOS. E-01773A-05-0679 AND E-04100A-05-0679)

On September 26, 2005, Arizona Electric Power Cooperative, Inc. ("AEPCO") and Southwest Transmission Cooperative, Inc. ("SWTC") filed a Joint Application for permission to credit certain amounts relating to August 2005 billings, and to make similar billing adjustments in the future should similar conditions develop in the future. By Application, the Commission is asked to authorize AEPCO remittances in the amounts of \$198,368 and \$80,985 to Sulphur Springs Valley Electric Cooperative, Inc. and Trico Electric Cooperative, Inc., respectively, and SWTC is seeking authorization to remit \$8,930 and \$2,985 to Sulphur Springs Valley Electric Cooperative, Inc. and Trico Electric Cooperative, Inc., respectively. AEPCO/SWTC have also requested authorization to allow the issuance of similar credits under similar circumstances in the future.

Background

AEPCO is a non-profit generation cooperative that supplies power to its four Arizona Class A all-requirements member distribution cooperatives and its one Arizona Class A partial-requirements member cooperative. The all-requirements members are the Duncan Valley Electric Cooperative, Inc. ("Duncan"), Graham County Electric Cooperative, Inc. ("Graham"), Sulphur Springs Valley Electric Cooperative, Inc. ("SSVEC") and Trico Electric Cooperative ("Trico"). The partial-requirements member is Mohave Electric Cooperative, Inc. ("Mohave"). Collectively, Class A members are referred to as the "Distribution Cooperatives".

SWTC is a non-profit transmission cooperative that has transmission service agreements with AEPCO and Mohave to transmit the electricity supplied by AEPCO to the Distribution Cooperatives.

The Distribution Cooperatives provide at retail to their members/customers the power supplied by AEPCO and transmitted by SWTC at wholesale. Some Distribution Cooperatives offer their retail customers load control or interruptible programs, which include lower rates in exchange for reducing loads during peak demand periods.

AEPCO and SWTC utilize Mohave and other real-time load data to identify coincident peak system demand for AEPCO and SWTC. The summation of real-time load data takes place in the SWTC system control area. The data are used, in part, to determine when to send a control notice to the Distribution Cooperatives. Control notice data are used in making decisions regarding real-time load shedding programs and identifying the day and time of coincident peak on the AEPCO and SWTC systems. The Mohave load resides within the Western Area Power Administration ("WAPA") Control Area that provides scheduling, regulation and imbalance services for Mohave loads.

Reason for Application

The coincident peak demand on the AEPCO and SWTC systems for July 2005 occurred on Sunday, July 17 at 4:00 p.m., and at that time, the WAPA communications system was not functioning. The communications failure prevented SWTC dispatchers and the Distribution Cooperatives from recognizing that the AEPCO monthly peak was in fact occurring, and therefore notices to control load were not sent to retail customers. AEPCO/SWTC had sufficient capacity to meet its obligations on July 17, 2005. AEPCO generation plus long-term firm power contracts provided the load needed to meet the demand on that day. It should be noted that AEPCO/SWTC did not lose any metering data for loads that are controlled by AEPCO.

AEPCO and SWTC complied with their respective tariffs by billing the Distribution Cooperatives actual metered demands coincident with the July 17, 2005 system peak. The request to issue billing credits for two of the five Distribution Cooperatives is inappropriate for the reasons discussed below.

Staff's Recommendations and Findings

Staff recommends that the Commission not approve the Joint Application filed by AEPCO and SWTC. Staff's position is based upon the following findings:

1. Staff recognizes that the AEPCO and SWTC Boards of Directors voted unanimously to credit July 2005 bills in the amounts of \$207,298 and \$83,970 for SSVEC and Trico, respectively. Staff also notes that AEPCO and SWTC are not requesting billing adjustments for the Duncan, Graham and Mohave cooperatives because, according to AEPCO and SWTC, the July 17, 2005 demands for the three cooperatives were lower than their July 16 demands. Staff respectfully disagrees with the Boards of Directors in this case. Existing tariffs do not authorize AEPCO and SWTC to credit actual metered billing demand charges based upon the assumption that customers were billed for more kW than they would have otherwise been billed if a curtailment alert had been issued.

2. Pertaining to the AEPCO/SWTC request to allow the issuance of similar credits under similar circumstances in the future, Staff is willing to meet with AEPCO/SWTC for the purpose of determining what, if any, changes to the tariffs would be appropriate to accommodate billing variances of this nature.
3. Staff believes that it would be inappropriate to develop billing demand credits based on hypothetical circumstances. AEPCO/SWTC would unintentionally create a new customer class that would effectively be billed demand charges based on something other than system coincident peak. The new customer class would be created because the Application explicitly proposes that AEPCO/SWTC be authorized to remit amounts based upon the lower (emphasis not added) of each Distribution Cooperative's bill on either of these days (July 16, 2005 or July 17, 2005).
4. Although Staff has no special insight into how the Directors of AEPCO/SWTC should manage their assets, Staff believes that it would be remiss if it did not mention the potential fiduciary inequity of returning operating revenues to the affected Cooperatives, because it was the affected Cooperatives that increased the operating costs of AEPCO and SWTC on July 17, 2005. The potential fiduciary inequity exists because the affected Cooperatives' retail customers benefited from the extra power, and according to the Application, it is impossible to know precisely what would have happened if control notices had been sent on July 17, 2005. Consequently, even if Staff supported the issuance of credits in this case, Staff could not validate the accuracy and amount of the credits.
5. It is impossible to know precisely what would have happened if interruption notices had been sent on July 17, 2005. It is pointed out in the Application that the AEPCO system peaks on these two weekend days (July 16, 2005 and July 17, 2005) were only different by 18 MW. The point of discussing the 18 MW demand difference between the two weekend days is unclear to Staff, because the credits in the combined amount of approximately \$291,000 are based upon the difference of approximately 22 MW created by the affected Cooperatives. The amounts of the credits were determined by deriving the differences between the actual demands on July 17, 2005 compared to the actual demands on July 16, 2005 for the affected Cooperatives, respectively.
6. The power generated by AEPCO and transmitted by SWTC to the Distribution Cooperatives was used by the Distribution Cooperatives' retail customers. Although the Distribution Cooperatives were not alerted to the fact that the AEPCO monthly peak was occurring, the failed communiqué did not cause AEPCO to purchase make-up power at higher spot market prices. Nor were any penalty billings imposed upon Distribution Cooperatives or their retail customers. Finally and perhaps most importantly, all Cooperatives, including SSVEC and Trico, were billed properly in accordance with existing tariffs' terms and conditions.

7. Staff is also concerned about the circumstances that caused the communications malfunction, because the WAPA communications system was not improved after the incident occurred. According to the record in the case, the following response from AEPCO/SWTC reinforces Staff's concern regarding the reliability of the communications system:

"SWTC/AEPCO have not had any conversations with WAPA concerning future failures of the Mt. Hualapai communications system. WAPA does not charge SWTC for placing its communications equipment in the facility. The event involved the failure of the commercial power supply as well as two back-up systems and unfortunately occurred on the afternoon of our system peak. AEPCO/SWTC view this as an isolated event that was beyond WAPA's control."

In light of the findings discussed above, Staff recommends that the Commission reject the AEPCO/SWTC Joint Application that would allow a billing variance in the combined amount of approximately \$291,000. Existing tariffs and the record do not support such an action. Pertaining to the handling of future billing adjustments under similar circumstances, in a separate proceeding, Staff is willing to discuss potential tariff changes with AEPCO/SWTC.



Ernest G. Johnson
Director
Utilities Division

EGJ:WHM:lhmk/L

ORIGINATOR: William H. Musgrove

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 MIKE GLEASON

Chairman

3 WILLIAM A. MUNDELL

Commissioner

4 JEFF HATCH-MILLER

Commissioner

5 KRISTIN K. MAYES

Commissioner

6 GARY PIERCE

Commissioner

7

8 IN THE MATTER OF THE JOINT }
9 APPLICATION OF THE ARIZONA }
10 ELECTRIC POWER COOPERATIVE, INC. }
11 AND SOUTHWEST TRANSMISSION }
12 COOPERATIVE, INC. FOR PERMISSION }
13 TO REFUND CERTAIN AMOUNTS }
14 RELATING TO AUGUST [2005] BILLINGS }

DOCKET NOS. E-01773A-05-0679

E-04100A-05-0679

DECISION NO. _____

ORDER

14 Open Meeting

June 26 and 27, 2007

15 Phoenix, Arizona

16 BY THE COMMISSION:

17 FINDINGS OF FACT

18 1. Arizona Electric Power Cooperative ("AEPCO") is certificated to provide electric
19 service as a public service corporation in the State of Arizona.

20 2. Southwest Transmission Cooperative ("SWTC") is certificated to provide electric
21 service as a public service corporation in the State of Arizona.

22 3. On September 26, 2005, Arizona Electric Power Cooperative, Inc. and Southwest
23 Transmission Cooperative, Inc. filed a Joint Application for permission to credit certain amounts
24 relating to August 2005 billings, and to make similar billing adjustments in the future should
25 similar conditions develop in the future. By Application, the Commission is asked to authorize
26 AEPCO remittances in the amounts of \$198,368 and \$80,985 to Sulphur Springs Valley Electric
27 Cooperative, Inc. and Trico Electric Cooperative, Inc., respectively, and SWTC is seeking
28 authorization to remit \$8,930 and \$2,985 to Sulphur Springs Valley Electric Cooperative, Inc. and

1 Trico Electric Cooperative, Inc., respectively. AEPCO and SWTC have also requested
2 authorization to allow the issuance of similar credits under similar circumstances in the future.

3 **Background**

4 4. AEPCO is a non-profit generation cooperative that supplies power to its four
5 Arizona Class A all-requirements member distribution cooperatives and its one Arizona Class A
6 partial-requirements member cooperative. The all-requirements members are the Duncan Valley
7 Electric Cooperative, Inc. ("Duncan"), Graham County Electric Cooperative, Inc. ("Graham"),
8 Sulphur Springs Valley Electric Cooperative, Inc. ("SSVEC") and Trico Electric Cooperative
9 ("Trico"). The partial-requirements member is Mohave Electric Cooperative, Inc. ("Mohave").
10 Collectively, Class A members are referred to as the "Distribution Cooperatives".

11 5. SWTC is a non-profit transmission cooperative that has transmission service
12 agreements with AEPCO and Mohave to transmit the electricity supplied by AEPCO to the
13 Distribution Cooperatives.

14 6. The Distribution Cooperatives provide at retail to their members/customers the
15 power supplied by AEPCO and transmitted by SWTC at wholesale. Some Distribution
16 Cooperatives offer their retail customers load control or interruptible programs, which include
17 lower rates in exchange for reducing loads during peak demand periods.

18 7. AEPCO and SWTC utilize Mohave and other real-time load data to identify
19 coincident peak system demand for AEPCO and SWTC. The summation of real-time load data
20 takes place in the SWTC system control area. The data are used, in part, to determine when to
21 send a control notice to the Distribution Cooperatives. Control notice data are used in making
22 decisions regarding real-time load shedding programs and identifying the day and time of
23 coincident peak on the AEPCO and SWTC systems. The Mohave load resides within the Western
24 Area Power Administration ("WAPA") Control Area that provides scheduling, regulation and
25 imbalance services for Mohave loads.

26 **Reason for Application**

27 8. The coincident peak demand on the AEPCO and SWTC systems for July 2005 occurred
28 on Sunday, July 17 at 4:00 p.m., and at that time, the WAPA communications system was not

1 functioning. The communications failure prevented SWTC dispatchers and the Distribution
2 Cooperatives from recognizing that the AEPCO monthly peak was in fact occurring, and therefore
3 notices to control load were not sent to retail customers. AEPCO/SWTC had sufficient capacity to
4 meet its obligations on July 17, 2005. AEPCO generation plus long-term firm power contracts
5 provided the load needed to meet the demand on that day. It should be noted that AEPCO/SWTC
6 did not lose any metering data for loads that are controlled by AEPCO.

7 9. AEPCO and SWTC complied with their respective tariffs by billing the Distribution
8 Cooperatives actual metered demands coincident with the July 17, 2005 system peak.

9 **Staff's Recommendations and Findings**

10 10. Staff believes that the request to issue billing credits for two of the five Distribution
11 Cooperatives is inappropriate and recommends that the Commission not approve the Joint
12 Application filed by AEPCO and SWTC.

13 11. Staff recognizes that the AEPCO and SWTC Boards of Directors voted
14 unanimously to credit July 2005 bills in the amounts of \$207,298 and \$83,970 for SSVEC and
15 Trico, respectively. Staff also notes that AEPCO and SWTC are not requesting billing adjustments
16 for the Duncan, Graham and Mohave cooperatives because, according to AEPCO and SWTC, the
17 July 17, 2005 demands for the three cooperatives were lower than their July 16 demands. Staff
18 respectfully disagrees with the Boards of Directors in this case. Existing tariffs do not authorize
19 AEPCO and SWTC to credit actual metered billing demand charges based upon the assumption
20 that customers were billed for more kW than they would have otherwise been billed if a
21 curtailment alert had been issued.

22 12. Pertaining to the AEPCO/SWTC request to allow the issuance of similar credits
23 under similar circumstances in the future, Staff is willing to meet with AEPCO/SWTC for the
24 purpose of determining what, if any, changes to the tariffs would be appropriate to accommodate
25 billing variances of this nature.

26 13. Staff believes that it would be inappropriate to develop billing demand credits based
27 on hypothetical circumstances. AEPCO/SWTC would unintentionally create a new customer class
28 that would effectively be billed demand charges based on something other than system coincident

1 peak. The new customer class would be created because the Application explicitly proposes that
2 AEPCO/SWTC be authorized to remit amounts based upon the lower (emphasis not added) of
3 each Distribution Cooperative's bill on either of these days (July 16, 2005 or July 17, 2005).

4 14. Although Staff has no special insight into how the Directors of AEPCO/SWTC
5 should manage their assets, Staff believes that it would be remiss if it did not mention the potential
6 fiduciary inequity of returning operating revenues to the affected Cooperatives, because it was the
7 affected Cooperatives that increased the operating costs of AEPCO and SWTC on July 17, 2005.
8 The potential fiduciary inequity exists because the affected Cooperatives' retail customers
9 benefited from the extra power, and according to the Application, it is impossible to know
10 precisely what would have happened if control notices had been sent on July 17, 2005.
11 Consequently, even if Staff supported the issuance of credits in this case, Staff could not validate
12 the accuracy and amount of the credits.

13 15. The record shows that it is impossible to know precisely what would have happened
14 if interruption notices had been sent on July 17, 2005. It is pointed out in the Application that the
15 AEPCO system peaks on these two weekend days (July 16, 2005 and July 17, 2005) were only
16 different by 18 MW. The point of discussing the 18 MW demand difference between the two
17 weekend days is unclear to Staff, because the credits in the combined amount of approximately
18 \$291,000 are based upon the difference of approximately 22 MW created by the affected
19 Cooperatives. The amounts of the credits were determined by deriving the differences between the
20 actual demands on July 17, 2005 compared to the actual demands on July 16, 2005 for the affected
21 Cooperatives, respectively.

22 16. The power generated by AEPCO and transmitted by SWTC to the Distribution
23 Cooperatives was used by the Distribution Cooperatives' retail customers. Although the
24 Distribution Cooperatives were not alerted to the fact that the AEPCO monthly peak was
25 occurring, the failed communiqué did not cause AEPCO to purchase make-up power at higher spot
26 market prices. Nor were any penalty billings imposed upon Distribution Cooperatives or their
27 retail customers. Finally and perhaps most importantly, all Cooperatives, including SSVEC and
28 Trico, were billed properly in accordance with existing tariffs' terms and conditions.

1 17. Staff is also concerned about the circumstances that caused the communications
2 malfunction, because the WAPA communications system was not improved after the incident
3 occurred. According to the record in the case, the following response from AEPCO/SWTC
4 reinforces Staff's concern regarding the reliability of the communications system:

5 "SWTC/AEPCO have not had any conversations with WAPA concerning
6 future failures of the Mt. Hualapai communications system. WAPA does not
7 charge SWTC for placing its communications equipment in the facility. The
8 event involved the failure of the commercial power supply as well as two
9 back-up systems and unfortunately occurred on the afternoon of our system
10 peak. AEPCO/SWTC view this as an isolated event that was beyond
11 WAPA's control."

12 18. In light of the findings discussed above, Staff recommends that the Commission
13 reject the AEPCO/SWTC Joint Application that would allow a billing variance in the combined
14 amount of approximately \$291,000.

15 19. Pertaining to the AEPCO/SWTC request to allow the issuance of similar credits
16 under similar circumstances in the future, Staff is willing to meet with AEPCO/SWTC for the
17 purpose of determining what, if any, changes to the tariffs would be appropriate to accommodate
18 billing variances of this nature.

19 CONCLUSIONS OF LAW

20 1. Arizona Electric Power Cooperative is a public service corporation within the
21 meaning of Article XV, Section 2, of the Arizona Constitution.

22 2. Southwest Transmission Cooperative is a public service corporation within the
23 meaning of Article XV, Section 2, of the Arizona Constitution.

24 3. The Commission has jurisdiction over Arizona Electric Power Cooperative and the
25 subject matter of the application.

26 4. The Commission has jurisdiction over Southwest Transmission Cooperative and the
27 subject matter of the application.

28 5. The Commission, having reviewed the application and Staff's Memorandum dated
June 20, 2007, concludes that it is not in the public interest to approve the Joint Application of
Arizona Electric Power Cooperative and Southwest Transmission Cooperative.

ORDER

IT IS THEREFORE ORDERED that the joint application of Arizona Electric Power Cooperative and Southwest Transmission Cooperative to issue billing credits in the amount of approximately \$291,000 is not approved.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I BRIAN C. McNEIL, Executive Director of the Arizona Corporation Commission, have hereunto, set my hand and caused the official seal of this Commission to be affixed at the Capitol, in the City of Phoenix, this _____ day of _____, 2007.

BRIAN C. McNEIL
Executive Director

DISSENT: _____

DISSENT: _____

EGJ:WHM:lhmk/L

Decision No. _____

1 SERVICE LIST FOR: Arizona Electric Power Cooperative, Inc. and
2 Southwest Transmission Cooperative, Inc.
3 DOCKET NOS. E-01773A-05-0679 and E-04100A-05-0679
4

5 Mr. Michael M. Grant
6 Mr. Todd C. Wiley
7 Attorneys for Arizona Electric Power Cooperative, Inc.
8 Gallagher & Kennedy, P.A.
9 2575 East Camelback Road
10 Phoenix, Arizona 85016-9225
11

12 Mr. Ernest G. Johnson
13 Director, Utilities Division
14 Arizona Corporation Commission
15 1200 West Washington
16 Phoenix, Arizona 85007
17

18 Mr. Christopher C. Kempley
19 Chief Counsel
20 Arizona Corporation Commission
21 1200 West Washington
22 Phoenix, Arizona 85007
23
24
25
26
27
28